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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION


UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 01 CR 1115
)	Court of Appeals Nos.
ALFREDO LONGORIA and)	03-1454 & 03-2615
LEONEL DURAN,)	
)	
Defendants.)	

MEMORANDUM

On June 20, 2005 our Court of Appeals (1) affirmed the convictions of Alfredo Longoria ("Longoria") and Leonel Duran ("Duran") but (2) issued a limited remand order as to their sentences, as prescribed by United States v. Paladino, 401 F.3d 471, 483-84 (7th Cir. 2005). This Court has requested and has received input from counsel for the government and for Longoria and Duran as to their respective views on whether the same sentences should have been imposed if the Sentencing Guidelines had been viewed as advisory rather than as mandatory (the pre-Booker understanding).

From those submissions and this Court's own review of the original sentencing proceedings, the presentence investigation reports and other sentencing materials, this Court has determined that the answer to that question is uncertain on the existing record--that a further sentencing hearing, including (1) potential evidentiary submissions, (2) a new allocution by each defendant in terms of the different legal environment that

now exists and (3) arguments by counsel unfettered by the mandatory view of the Guidelines that originally prevailed, is necessary for an informed decision. In this Court's view, the fact that the original sentences--imposed under the then-erroneous understanding of the role of the Guidelines--prevented the appropriate presentation of such additional input for this Court's consideration at the original sentencing created the plain error referred to in Paladino. Accordingly this Court requests the Court of Appeals to vacate the original sentences and to remand both defendants' cases to this District Court for resentencing.



Milton I. Shadur
Senior United States District Judge

Date: July 21, 2005